

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2374**

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**Introduced by Assembly Member Nestande**

February 19, 2010

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An act to amend Section 12315 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2374, as amended, Nestande. In-Home Supportive Services: pilot project.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Existing law permits services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Existing law requires, commencing January 1, 2009, the establishment of a pilot project in 5 consenting counties under which the project provides severely impaired IHSS recipients, as described, with the choice to receive in-home supportive services either through a public authority or a contracting voluntary nonprofit or proprietary agency, as specified.

This bill would, instead, require the pilot project to commence January 1, 2011, and would ~~expand participation in the pilot project to all IHSS recipients rather than limiting participation to only those that are severely~~

~~impaired~~ authorize the pilot project to be established in not more than 5 consenting counties.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12315 of the Welfare and Institutions  
2 Code is amended to read:

3 12315. (a) (1) Commencing January 1, 2011, a pilot project  
4 shall be established in *up to* five consenting counties that provides  
5 *severely impaired* recipients who receive in-home supportive  
6 services under this article through the public authority, as described  
7 in Section 12301.6, with a choice of receiving services through  
8 the public authority or receiving services through a voluntary  
9 nonprofit or proprietary agency pursuant to Section 12302. *The*  
10 *pilot project shall be developed to provide services to severely*  
11 *impaired recipients, as described in Section 12303.4.*

12 (2) To accomplish this end, the ~~five~~ consenting counties shall  
13 administer the In-Home Supportive Services (IHSS) program  
14 through a public authority pursuant to Section 12301.6.

15 (3) (A) Following the submission of input and recommendations  
16 of the IHSS advisory committee for the county, each participating  
17 county, with the consent of the public authority in that county, or  
18 the public authority, with the consent of the participating county,  
19 shall contract with a voluntary nonprofit or proprietary agency,  
20 pursuant to Section 12302.

21 (B) ~~Recipients~~ *Severely impaired recipients* in each participating  
22 county may continue to receive supportive services through the  
23 county's public authority, or may choose to receive services  
24 through the voluntary nonprofit or proprietary agency, pursuant  
25 to paragraph (1). Recipients who choose to receive services through  
26 the voluntary nonprofit or proprietary agency shall be compensated  
27 only for those services described in the recipients' then-existing  
28 care plan, as approved by the county social worker.

29 (4) Administrative costs of the pilot project, including the cost  
30 of developing guidelines other than the guidelines in this section  
31 and the cost of administering the project and providing oversight,  
32 shall not be paid by the state. Instead, an estimate of administrative  
33 costs shall be included in the county request for proposal for each

1 contract with the voluntary nonprofit or proprietary agency and  
2 administrative costs shall then be paid by the agency up to the  
3 amount estimated unless the county and agency reach an alternative  
4 cost-sharing agreement in the contract that does not involve state  
5 participation.

6 (b) (1) (A) For purposes of this section, to the extent possible,  
7 all providers employed by the voluntary nonprofit or proprietary  
8 agency shall be persons previously listed on the public authority's  
9 registry. The agency shall, pursuant to the contract, continually  
10 recruit and provide the public authority with names of new workers  
11 for the registry.

12 (B) The voluntary nonprofit or proprietary agency in each  
13 participating county shall provide for training for all providers  
14 recruited pursuant to this paragraph. A public authority may retain  
15 the voluntary nonprofit or proprietary agency to provide these  
16 services for and under the direction of the public authority. A  
17 public authority shall not be eligible to receive reimbursement for  
18 any costs associated with administering the pilot project. This shall  
19 not prohibit any public authority from using the funding it receives  
20 pursuant to paragraph (4) of subdivision (a) for newsletters and  
21 other means of communication about training opportunities  
22 available through the voluntary nonprofit or proprietary agency.

23 (C) All providers employed by the voluntary nonprofit or  
24 proprietary agency shall be paid no less than the wages and benefits  
25 provided for in the public authority's collective bargaining  
26 agreement, provided that this provision shall not obligate the state  
27 to participate in a contract rate higher than the maximum allowable  
28 contract rate. However, providers employed by the voluntary  
29 nonprofit or proprietary agency are not covered by any existing  
30 collective bargaining agreements with the public authority.

31 (2) A voluntary nonprofit or proprietary agency that contracts  
32 with a participating county pursuant to subdivision (a) shall  
33 perform all of the following duties:

34 (A) Maintain a live, on-call emergency service response system  
35 that is available 24 hours a day, seven days a week.

36 (B) Replace or supplement providers for a recipient who needs  
37 immediate service for the sake of preserving his or her health or  
38 safety within two hours of notification.

39 (C) To the extent possible, employ the recipient's preferred  
40 provider or providers.

1 (D) If required by the county, provide emergency backup  
2 services to *severely impaired* IHSS recipients when there is an  
3 unexpected interruption in services.

4 (E) Maintain a list of its providers with the public authority.

5 (F) Establish and maintain an upskilling program, based on  
6 practices in existing agency contracts, wherein employees may  
7 have the opportunity to use work experience and training toward  
8 upward movement on a long-term care career ladder. Any costs  
9 associated with the development and maintenance of the upskilling  
10 program shall be paid solely by the voluntary nonprofit or  
11 proprietary agency.

12 (G) Be liable for any fraud, waste, or abuse for which it is  
13 responsible.

14 (3) For the duration of the pilot project, supportive services not  
15 provided in any month due to hospitalization, illness, refusal, or  
16 other cause not within the control of the provider shall not be made  
17 up in a subsequent period without caseworker approval.

18 (c) (1) In each participating county, the IHSS advisory  
19 committee, as described in Section 12301.3, shall monitor the pilot  
20 program.

21 (2) Each participating county shall not be eligible to receive  
22 state reimbursement of administrative costs associated with  
23 monitoring the pilot program. Any administrative costs incurred  
24 by a public authority for monitoring the pilot project shall be paid  
25 to the public authority pursuant to paragraph (4) of subdivision  
26 (a). Any advisory committee expenses incurred as a result of this  
27 pilot project, if determined to be reimbursable to the county, shall  
28 be reimbursed with the current advisory committee allocation.

29 (3) Each county pilot project shall continue for four years,  
30 provided that if a county takes action to terminate a contract for  
31 cause, as defined in the contract, it may then terminate its  
32 participation in the pilot project. By the end of the third year, each  
33 participating county shall provide for an independent evaluation  
34 to assess the success of the pilot program, based on all of the  
35 following criteria:

36 (A) Consumer satisfaction.

37 (B) Cost-effectiveness.

38 (C) Average turnover of providers.

39 (D) The effect of the pilot project on non-IHSS vendors,  
40 workers, and referral agencies.

1 (E) Worker satisfaction.

2 (F) The extent to which counties identify, refer to, and work  
3 with appropriate agencies in investigation, administrative action,  
4 or prosecution of instances of fraud, as defined in subdivision (a)  
5 of Section 12305.8, in the provision of supportive services.

6 (d) All costs associated with the independent evaluation shall  
7 be paid solely by the voluntary nonprofit or proprietary agency.

8 (e) The independent evaluation shall be sent directly to the  
9 appropriate policy and fiscal committees of the Legislature.

10 (f) County social workers shall continue to establish eligibility,  
11 needs, and frequency of service and serve as recipient advocates,  
12 as appropriate.

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